

## § 800.306

submitter in accordance with DOE regulations concerning public disclosure of information. Any submitter asserting that the information is privileged or confidential should appropriately identify and mark such information.

(b) Upon a showing satisfactory to the Secretary that any information or portion thereof obtained under this regulation would, if made public, divulge trade secrets or other proprietary information of the minority business enterprise, the Secretary may not disclose such information.

(c) This section shall not be construed as authority to withhold information from Congress or from any committee of Congress upon request of the Chairman.

## § 800.306 Noninterference with other laws.

Nothing in this regulation shall be construed to modify requirements imposed on the borrower by Federal, State and local government agencies in connection with permits, licenses, or other authorizations to conduct or finance its business.

## § 800.307 Appeals.

Any dispute concerning questions of fact arising under the loan agreement shall be decided in writing by the contracting officer. The borrower may request the contracting officer to reconsider any such decision, which reconsideration shall be promptly undertaken. If not satisfied with the contracting officer's final decision, the borrower, upon receipt of such written decision, may appeal the decision within 60 days in writing to the Chairman, Financial Assistance Appeals Board (FAAB), Department of Energy, Washington, DC 20585. The Board shall proceed in accordance with the Department of Energy's rules and regulations for such purpose. The decision of the Board with respect to such appeals shall be the final decision of the Secretary.

## PART 810—ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES

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### APPENDIX A TO PART 810—GENERALLY AUTHORIZED DESTINATIONS

AUTHORITY: Secs. 57, 127, 128, 129, 161, 222, and 232 Atomic Energy Act of 1954, as amended by the Nuclear Nonproliferation Act of 1978, Pub. L. 95–242, 68 Stat. 932, 948, 950, 958, 92 Stat. 126, 136, 137, 138 (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2272, 2280), and the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108–458, 118 Stat. 3768; Sec. 104 of the Energy Reorganization Act of 1974, Pub. L. 93–438; Sec. 301, Department of Energy Organization Act, Pub. L. 95–91; National Nuclear Security Administration Act, Pub. L. 106–65, 50 U.S.C. 2401 *et seq.*, as amended.

SOURCE: 80 FR 9375, Feb. 23, 2015, unless otherwise noted.

### § 810.1 Purpose.

The regulations in this part implement section 57 b.(2) of the Atomic Energy Act, which empowers the Secretary, with the concurrence of the Department of State, and after consultation with the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense, to authorize persons to directly or indirectly engage or participate in the development or production of special nuclear material outside the United States. The purpose of the regulations in this part is to:

(a) Identify activities that are generally authorized by the Secretary and thus require no other authorization under this part;

(b) Identify activities that require specific authorization by the Secretary and explain how to request authorization; and

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(c) Specify reporting requirements for authorized activities.

### § 810.2 Scope.

(a) Part 810 (this part) applies to:

(1) All persons subject to the jurisdiction of the United States who directly or indirectly engage or participate in the development or production of any special nuclear material outside the United States; and

(2) The transfer of technology that involves any of the activities listed in paragraph (b) of this section either in the United States or abroad by such persons or by licensees, contractors or subsidiaries under their direction, supervision, responsibility, or control.

(b) The activities referred to in paragraph (a) of this section are:

(1) Chemical conversion and purification of uranium and thorium from milling plant concentrates and in all subsequent steps in the nuclear fuel cycle;

(2) Chemical conversion and purification of plutonium and neptunium;

(3) Nuclear fuel fabrication, including preparation of fuel elements, fuel assemblies and cladding thereof;

(4) Uranium isotope separation (uranium enrichment), plutonium isotope separation, and isotope separation of any other elements (including stable isotope separation) when the technology or process can be applied directly or indirectly to uranium or plutonium;

(5) Nuclear reactor development, production or use of the components within or attached directly to the reactor vessel, the equipment that controls the level of power in the core, and the equipment or components that normally contain or come in direct contact with or control the primary coolant of the reactor core;

(6) Development, production or use of production accelerator-driven subcritical assembly systems;

(7) Heavy water production and hydrogen isotope separation when the technology or process has reasonable potential for large-scale separation of deuterium ( $^2\text{H}$ ) from protium ( $^1\text{H}$ );

(8) Reprocessing of irradiated nuclear fuel or targets containing special nuclear material, and post-irradiation examination of fuel elements, fuel assem-

blies and cladding thereof, if it is part of a reprocessing program; and

(9) The transfer of technology for the development, production, or use of equipment or material especially designed or prepared for any of the above listed activities. (*See* Nuclear Regulatory Commission regulations at 10 CFR part 110, Appendices A through K, and O, for an illustrative list of items considered to be especially designed or prepared for certain listed nuclear activities.)

(c) This part does not apply to:

(1) Exports authorized by the Nuclear Regulatory Commission, Department of State, or Department of Commerce;

(2) Transfer of publicly available information, publicly available technology, or the results of fundamental research;

(3) Uranium and thorium mining and milling (*e.g.*, production of impure source material concentrates such as uranium yellowcake and all activities prior to that production step);

(4) Nuclear fusion reactors per se, except for supporting systems involving hydrogen isotope separation technologies within the scope defined in paragraph (b)(7) of this section and § 810.7(c)(3);

(5) Production or extraction of radio-pharmaceutical isotopes when the process does not involve special nuclear material; and

(6) Transfer of technology to any individual who is lawfully admitted for permanent residence in the United States or is a protected individual under the Immigration and Naturalization Act (8 U.S.C. 1324b(a)(3)).

(d) Persons under U.S. jurisdiction are responsible for their foreign licensees, contractors, or subsidiaries to the extent that the former have control over the activities of the latter.

### § 810.3 Definitions.

As used in this part 810:

*Agreement for cooperation* means an agreement with another nation or group of nations concluded under sections 123 or 124 of the Atomic Energy Act.

*Assistance* means assistance in such forms as instruction, skills, training,